

**APR 14 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ROTISH SINGH,

Petitioner - Appellant,

v.

BRIAN BELLEQUE,

Respondent - Appellee.

No. 05-35487

D.C. No. CV-03-00242-CO

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Oregon  
Michael R. Hogan, District Judge, Presiding

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN and PAEZ, Circuit Judges.

Oregon State Prisoner Rotish Singh appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 petition as time-barred. We have

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 2253. We review de novo, *Nardi v. Stewart*, 354 F.3d 1134, 1140 (9th Cir. 2004), and we affirm.

Singh contends that he is entitled to equitable tolling of the statute of limitations because counsel hired to file his state court post-conviction petition did not file it until after the Antiterrorism and Effective Death Penalty Act statute of limitations had run. Singh has not shown that counsel's actions constituted extraordinary circumstances rather than mere negligence. *See Miranda v. Castro*, 292 F.3d 1063, 1067-68 (9th Cir. 2002); *Frye v. Hickman*, 273 F.3d 1144, 1146 (9th Cir. 2001). Furthermore, Singh has not shown that he was diligent in pursuing his rights. *See Pace v. DiGuglielmo*, 125 S. Ct. 1807, 1814 (2005).

**AFFIRMED.**